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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

HYLTON, ROBIN ANNETTE

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 04/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/835,933

Applicant(s)

HEFNER, CORBETT T.

Examiner

Robin A. Hylton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 and 32-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 and 32-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1-4 and 8 are rejected under 35 U.S.C. 102(e) as being anticipated by Fox et al. (US 6,626,570).

Fox teaches a bag having a first mesh side wall having a reinforcing strip 60 attached thereto and a second resin, film side wall, the reinforcing strip being bonded to the second film wall in a film-to-film relationship at seams 14 and 16.

Regarding the wicket extension, see figure 12.

Claim Rejections - 35 USC § 103

3. Claims 5-7 and 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fox.

Fox teaches the claimed bag except is silent regarding specific dimensions for the height of the seams and overlap extension and the seam strength.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to select any height dimension as a matter of design choice to optimize the bag size for its intended use. Similarly, it would have a matter of design choice to select a seam strength sufficient to avoid breakage for the desired use of the bag.

4. Claims 15, 16, 18, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fox.

Fox teaches the claimed bag except is silent regarding specific dimensions for the height of the seams and overlap extension and the seam strength.

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to select any height dimension as a matter of design choice to optimize the bag size for its intended use.

5. Claims 1-4,20,32,36 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagel (US 3,554,368) in view of Cammack (US 5,741,076).

Nagel teaches a bag having a resin, mesh side wall and a resin coated second side wall. Nagel does not teach the second side wall is formed of a synthetic resin film material and a reinforcing strip attached to the first mesh side wall.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the second side wall of Nagel of a synthetic resin film material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. Doing so allows for storage of more items within the bag.

Cammack teaches it is known to provide a resin mesh side wall with a resin film reinforcing strip and directly bonding the reinforcing strip to the second side wall.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of a reinforcing strip to the mesh side wall of Nagel and directly bonding it to the resin second side wall. Doing so reinforces the opening of the bag.

6. Claims 5-7 and 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagel in view of Cammack.

Nagel as modified teaches the claimed bag except is silent regarding specific dimensions for the height of the seams and overlap extension and the seam strength.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to select any height dimension as a matter of design choice to optimize the bag size for its

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intended use. Similarly, it would have a matter of design choice to select a seam strength sufficient to avoid breakage for the desired use of the bag.

7. Claims 8-10 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 1 above, and further in view of Sorenson et al. (US 6,033,112).

Nagel as modified teaches the claimed bag except for wicket holes and slits in the vicinity thereof on the longer, second side wall of the bag.

Sorenson teaches it is known to provide wicket holes and slits in the vicinity thereof on the longer, second side wall of the bag.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply wicket holes and slits in the vicinity thereof on the longer, second side wall of the bag. Doing so allows for easy filling of the bag and removal from the wicket.

8. Claims 15,16,18,19,34, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagel in view of Cammack.

Nagel teaches a bag having a resin, mesh side wall and a resin coated second side wall. Nagel does not teach the second side wall is formed of a synthetic resin film material, a reinforcing strip attached to the first mesh side wall, and silent regarding specific dimensions for the height of the seams and overlap extension and the seam strength.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the second side wall of Nagel of a synthetic resin film material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. Doing so allows for storage of more items within the bag.

Cammack teaches it is known to provide a resin mesh side wall with a resin film reinforcing strip and directly bonding the reinforcing strip to the second side wall.

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of a reinforcing strip to the mesh side wall of Nagel and directly bonding it to the resin second side wall. Doing so reinforces the opening of the bag.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to select any height dimension as a matter of design choice to optimize the bag size for its intended use. Similarly, it would have a matter of design choice to select a seam strength sufficient to avoid breakage for the desired use of the bag.

9. Claims 17 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 15 above, and further in view of Sorenson.

Nagel as modified teaches the claimed bag except for wicket holes and slits in the vicinity thereof on the longer, second side wall of the bag.

Sorenson teaches it is known to provide wicket holes and slits in the vicinity thereof on the longer, second side wall of the bag.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply wicket holes and slits in the vicinity thereof on the longer, second side wall of the bag. Doing so allows for easy filling of the bag and removal from the wicket.

Response to Arguments

10. Applicant's arguments filed January 27, 2005 have been fully considered but they are not persuasive.

Regarding applicant's remarks directed to Fox, although the patent is directed to a draw string closure arrangement of the bag, the sleeve 60 effectively reinforces the mesh wall and is inherently a reinforcing strip. Additionally, the claim only requires the strip to extend above the mesh wall to which it is attached. This is seen in figure 3 of Fox. It is noted that mounting strip 70 is optional (col. 6, lines 25-27).

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Regarding the direct film-to-film bonding of the extension 60 and the second sheet 12, figure 1 and column 5, lines 15-21 disclose direct bonding between the elements.

In response to applicant's argument that the references (Nagel and Cammack) fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the bonding between the sheet and reinforcing strip "requires no other layer, mesh or otherwise, dispersed between the reinforcing strip and the film side of the bag") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The adhesive strip is located not between the reinforcing strip and the mesh wall, but rather on a side of the mesh wall opposite the reinforcing strip.

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (703) 872-9306. This practice

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may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

13. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

I hereby certify that this correspondence for Application Serial No. _____ is being facsimiled to The U.S. Patent and Trademark Office via fax number (703) 872-9306 on the date shown below.

Typed or printed name of person signing this certificate

Signature _____

Date _____

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (571) 272-4540. The examiner can normally be reached Monday - Friday from 9:00 a.m. to 4:00 p.m. (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young, can be reached on (571) 272-4549.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Errica Miller at (571) 272-4370.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148 or may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RAH
March 30, 2005



Robin A. Hylton
Primary Examiner
GAU 3727